

1 MITCHELL D. GLINER, ESQ.
Nevada Bar #003419
2 3017 West Charleston Blvd., #95
Las Vegas, NV 89102
3 (702) 870-8700
(702) 870-0034 Fax
4 Attorney for Plaintiff

5
6 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

7 MARIA A. LIPSCOMB,)
8)
Plaintiff,)
9) No.
vs.)
10)
PHILLIPS & COHEN ASSOCIATES,)
11 LTD., a foreign corporation,)
and COMMERCIAL RECOVERY)
12 SYSTEMS, INC., a foreign)
corporation, and)
13) JURY DEMANDED
Defendants.)
14)

15 COMPLAINT

16 JURISDICTION

17 1. The jurisdiction of this Court attains pursuant to the
18 FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332,
19 and the doctrine of supplemental jurisdiction. Venue lies in the
20 Southern Division of the Judicial District of Nevada as Plaintiff's
21 claims arose from acts of the Defendants perpetrated therein.

22 PRELIMINARY STATEMENT

23 2. This action is instituted in accordance with and to
24 remedy Defendants' violations of the Federal Fair Debt Collection
25 Practices Act, 15 U.S.C § 1692 et seq. (hereinafter "FDCPA"), and
26 of related state law obligations brought as supplemental claims
27 hereto.
28

1 3. In 2011 Defendants initiated a campaign of abusive,
2 unfair, unreasonable, and unlawful debt collection activity
3 directed against Plaintiff in Las Vegas, Nevada.

4 4. As a result of these and other violations of law,
5 Plaintiff seeks hereby to recover actual and statutory damages
6 together with reasonable attorney's fees and costs.

7 PARTIES

8 5. Plaintiff, Maria A. Lipscomb, is a natural person who
9 resides in Las Vegas, Nevada, and is a "consumer" as defined by 15
10 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by
11 15 U.S.C. Section 1692a(5).

12 6. The Defendant, PHILLIPS & COHEN ASSOCIATES, LTD.,
13 (PHILLIPS) is a foreign corporation, the principal purpose of whose
14 business is the collection of debts operating a debt collection
15 agency from its principal place of business in Wilmington, DE and
16 regularly collections or attempts to collect debts owed or due or
17 asserted to be owed or due another, and is a "debt collector" as
18 defined by 15. U.S.C. Section 1692a(6).

19 7. Defendant, COMMERCIAL RECOVERY SYSTEMS, INC. (CRS), is a
20 foreign corporation, the principal purpose of whose business is the
21 collection of debts, operating a debt collection agency from its
22 principal place of business in Dallas, TX, and regularly collects
23 or attempts to collect debts owed or due or asserted to be owed or
24 due another, and is a "debt collector" as defined by 15 U.S.C.
25 Section 1692a(6).

26 / / /

27 / / /

28 / / /

FACTUAL ALLEGATIONS

8. Plaintiff repeats, realleges and asserts all factual allegations contained in the preliminary statement to this Complaint and reasserts them as incorporated in full herein.

9. On September 12, 2011, Plaintiff sued CRS in Federal Court under the FDCPA, styled *Lipscomb v. Commercial Recovery Systems, Inc.*, Case No. 2:11-cv-01463-KJD-PAL (2011).

10. CRS settled the action during November, 2011.

11. The settlement included the full satisfaction of the account underlying the action.

12. Plaintiff recently received Phillips' December 30, 2011 dun (Exhibit 1).

13. Exhibit 1 references the same underlying account ostensibly satisfied in the first action against CRS.

14. Notwithstanding, CRS again assigned the underlying account for collection despite explicit knowledge Plaintiff was indeed represented by counsel in violation of FDCPA § 1692c(a)(2). Kuhn v. Account Control Technology, Inc., 865 F. Supp. 1443, 1453 (D. Nevada 1994).

15. Plaintiff had a right "to be left alone" which CRS serially ignored. Kuhn v. Account Control Technology, Inc., 865 F. Supp. 1443, 1448 (D. Nev. 1994).

16. Defendants' attempts to knowingly collect on a fully satisfied and otherwise invalid debt was in violation of both FDCPA §§ 1692e(2)(A) and (10) and FDCPA § 1692f. Kimber v. Federal Financial Corp., 668 F. Supp. 1480, 1487-89 (M.D. Ala. 1987).

/ / /

/ / /

COUNT II

23. The foregoing acts and omissions of Defendants constitute unreasonable debt collection practices in violation of the doctrine of Invasion of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp. 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).

24. Plaintiff is entitled to recover actual damages as well as punitive damages in an amount to be proven at trial.

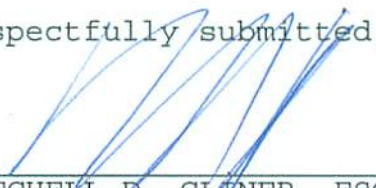
JURY DEMANDED

Plaintiff hereby demands trial by a jury on all issues so triable.

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

1. Award actual damages.
2. Award punitive damages.
3. Award statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k.
4. Award reasonable attorney fees.
5. Award costs.
6. Grant such other and further relief as it deems just and proper.

Respectfully submitted,



MITCHELL D. GLINER, ESQ.
Nevada Bar #003419
3017 West Charleston Boulevard
Suite 95
Las Vegas, NV 89102
Attorney for Plaintiff

**Phillips & Cohen Associates, Ltd.**

Ph 866-690-0884 • Fx 302-368-0970

Office Hours: M-Th: 8am-9pm, Fri: 8am-6pm

Sat: 8am-12pm



PO Box 5790

Hauppauge, NY 11788-0164

RETURN SERVICE REQUESTED

X December 30, 2011

18291222-589

689857554



Maria Lipscomb

5219 Intermission CT

N Las Vegas NV 89031-0419

Phillips & Cohen Associates, Ltd.

Mail Stop: 2001

1002 Justison Street

Wilmington, DE 19801-5148



Reference #: 18291222

Balance: \$3,058.02

PLEASE DETACH AND RETURN IN THE ENCLOSED ENVELOPE WITH YOUR PAYMENT

Re: **Client:** Santander
Client Acct#: *****1000
Reference#: 18291222
Balance: \$3,058.02

Dear Maria Lipscomb:

Phillips and Cohen Associates has been retained by Santander to recover the outstanding amount owed to them on the above referenced account. Santander has indicated to us that this debt is just and legitimate, and is therefore approaching this matter with the utmost seriousness.

Our collection agreement with Santander stipulates that we explore all options for recovering the amount owed to them. This letter is designed to afford you the opportunity to resolve this account by sending payment in full in the amount of \$3,058.02. This will completely satisfy your financial obligation and your credit history will be updated to reflect that this matter is resolved.

You have a very important decision to make. To take advantage of this opportunity, detach and return the above coupon with payment in the envelope provided. Should you have any questions, you may contact our office at the above referenced number.

Sincerely,

Phillips & Cohen Associates, Ltd.

**** IMPORTANT CONSUMER INFORMATION ****

Unless you notify this office within thirty (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within thirty (30) days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such verification or judgment. If you request this office in writing within thirty (30) days of receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

EXHIBIT 1